

**Request  
for  
Continued Examination (RCE)  
Transmittal**

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	09/459,022
Filing Date	December 10, 1999
First Named Inventor	Ming Cheng
Art Unit	1638
Examiner Name	Georgia L. Helmer
Attorney Docket Number	38-21(15084)B

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/ Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

3. **Fees**

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- The Director is hereby authorized to charge the following fees, or credit any overpayments, to
- a. ☒ Deposit Account No. 13-4125. I have enclosed a duplicate copy of this sheet.
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other \_\_\_\_\_
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Signature	<i>M. Todd Rands</i>	Date	<i>5/23/05</i>
Name (Print/Type)	M. Todd Rands	Registration No.	46,249

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage Exp. Mail #EV114073544US addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below

Signature	<i>Michelle Ludwig</i>	Date	<i>May 23 2005</i>
Name (Print/Type)	Michelle Ludwig		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE UNDER 37 C.F.R. §1.10

I hereby certify that the documents enclosed herein are being deposited with the United States Postal Service on this 23 day of May, 2005 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV114073544US addressed to: MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

  
Michelle Ludwig

In re application of: Cheng et al. )  
Serial No.: 09/459,022 ) Group Art Unit: 1638  
Filed: December 10, 1999 ) Examiner: G. Helmer  
Title: An Improved Efficiency Agrobacterium- ) Conf. No.: 9594  
Mediated Plant Transformation Method )

AMENDMENT AND RESPONSE ACCOMPANYING REQUEST FOR CONTINUED  
EXAMINATION

Mail Stop RCE  
Commissioner of Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This Amendment and Response is filed with a Request for Continued Examination and in response to the Office Action dated September 22, 2004. The amendment was previously filed, but the Examiner refused to enter the amendments on grounds that they required a new search. Thus, this paper is re-filed with the RCE in order that the amendments may be entered and considered by the Examiner. The current status of the pending claims is set forth in the following section. Remarks in response to the rejections presented in the Office Action follow the claim status.

A Notice of Appeal was previously filed on March 1, 2005. In a separate Petition for Extension of Time, Applicants have requested and paid the fee for a one-month extension of time. Thus, this response is timely filed by June 1, 2005. If the fee is missing or insufficient, or if any additional fees are required for any reason under 37 CFR 1.16 or 1.17, the Commissioner is hereby requested to grant any extensions of time needed and to charge any required fees to Deposit Account No. 13-4125. **AMENDMENTS TO THE CLAIMS** and **REMARKS** follow.